**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR**

**FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929**

**WP(C).No. 35389 of 2005(K)**

**PETITIONER:**

**DHANYALAKSHMI, D/O.GOPINATHAN NAIR,**
**KAIRALI BHAVAN, PARAKKODU.P.O.,**
**ADOOR, PATHANAMTHITTA.**

**BY ADV. SRI.NIDHI BALACHANDRAN.**

**RESPONDENTS/RESPONDENTS IN WRIT PETITION:**

1. **STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, DEPARTMENT OF REVENUE, SECRETARIAT, THIRUVANANTHAPURAM.**
2. **THE SECRETARY, KERALA MOTOR TRANSPORT WORKERS WELFARE FUND BOARD, THIRUVANANTHAPURAM.**
3. **THE EXECUTIVE OFFICER, KERALA MOTOR TRANSPORT WORKERS WELFARE FUND BOARD, PATHANAMTHITTA.**
4. **THE DEPUTY TAHSILDAR (R.R), ADOOR.**

**BY ADV. SRI. K. HARILAL, SC.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/06/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**W.P.(C). NO.35389/2005:**

## APPENDIX

**PETITIONER'S EXHIBITS:**

**EXT.P.1: COPY OF THE PROCEEDINGS OF THE R.T.A, PATHANAMTHITTA DTD. 19/12/02.**

**EXT.P.2: COPY OF THE RELEVANT PORTION OF THE REGISTRATION BOOK OF THE VEHICLE OF THE PETITIONER.**

**EXT.P.3: COPY OF THE ORDER DTD. 26/05/05 ISSUED BY THE R.3. FOR THE ASSESSMENT YEAR 2002-03.**

**EXT.P.4: COPY OF THE REPRESENTATION DTD. 08/06/04 SUBMITTED BY THE PETITIONER TO THE R.3.**

**EXT.P.5: COPY OF THE ORDER NO. EP.842/FDO/03-04 DTD. 23/06/04 ISSUED BY THE R.3. IN REGARD TO THE ASSESSMENT YEAR 2003-04.**

**EXT.P.6: COPY OF THE APPEAL DTD. 08/08/05 PREPARED BY THE PETITIONER.**

**EXT.P.7: COPY OF THE DEMAND/REVENUE RECOVERY NOTICE ISSUED BY THE R.4. FOR THE ASSESSMENT YEAR 2002-03.**

**EXT.P.8: COPY OF THE DEMAND/REVENUE RECOVERY NOTICE ISSUED BY THE R.4. FOR THE ASSESSMENT YEAR 2003-04.**

**EXT.P.9: COPY OF THE DEMAND/REVENUE RECOVERY NOTICE ISSUED BY THE R.4. FOR THE ASSESSMENT YEAR 2004-05.**

**EXT.P.10: COPY OF THE RECEIPTS SHOWING THE PAYMENT MADE BY THE PETITIONER PURSUANT TO EXT.P.8 & P.9.**

**RESPONDENT'S EXHIBITS:**

**EXT.R3.A: COPY OF THE INSPECTION NOTE DTD. 20/01/2004 ISSUED BY THE R.3.**

**EXT.R3.B: COPY OF THE PROVISIONAL DETERMINATION ORDER DTD. 26/03/2004 ISSUED BY THE DISTRICT EXECUTIVE OFFICER.**

**//TRUE COPY//**

**prv.**

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.35389 of 2005

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Dated this the 29th day of June, 2007.

JUDGMENT

The petitioner is challenging Ext.P3 order demanding Motor Transport Workers Welfare fund dues for the year 2002-2003 for three workers. The case of the petitioner is that vehicle itself was purchased and registered on 16.10.2002 and permit was issued only with effect from 19.12.2002. However, Standing Counsel for second and third respondents submitted that demand is raised based on statement given by petitioner's employees and petitioner did not respond to provisional determination order. The employees have stated only the year in which they joined the service of the petitioner. Obviously adjudication cannot be based on such vague statements. It is clear from Exts.P1 and P2 that the vehicle was purchased, registered and permit obtained for operation with effect from 19.12.2002. Therefore, the vehicle is operated only for four months in the financial year 2002-2003. In the circumstances, Exts.P3 is modified reducing the liability to one third. There will be direction to the Executive Officer to revise the liability under Ext.P3 to one third, credit Rs.10,000/- already paid by the petitioner and demand only balance amount. Recovery

proceedings will remain stayed for one month within which time petitioner will remit the balance and on failure, the balance as above only can be recovered.

W.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms